



## Filing Receipt

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PROJECT NO. 51840

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RULEMAKING TO ESTABLISH	)	PUBLIC UTILITY COMMISSION
ELECTRIC WEATHERIZATION STANDARDS	)	OF TEXAS
	)	

**COMMENTS OF NATIONAL GRID RENEWABLES**

National Grid Renewables (“NG Renewables”) is pleased to file these comments in response to the discussion draft and questions for comments issued by the Public Utility Commission of Texas (“PUCT”) staff in Project 51840, *Rulemaking to Establish Electric Weatherization Standards*.

NG Renewables develops wind, solar and storage projects throughout the United States and is actively involved in development activities in Texas, and specifically the ERCOT region. Accordingly, the company has a direct interest in this proceeding. NG Renewables provided comments in response to staff’s initial request for comments in this proceeding and offers these additional comments on the two specific questions posed by the staff in relation to the draft rule, as well as on the draft rule generally.

I. **INTRODUCTION**

NG Renewables commends the PUCT and its staff for taking action to ensure that all relevant infrastructure is well situated to support electric reliability during challenging weather conditions. Like any regulatory obligation, actions taken by the PUCT in this regard should facilitate effective results but should also ensure that subject entities are afforded the benefits of regulatory certainty with respect to the clarity of what is required by the rule, and therefore what actions must be taken to comply. Additionally, any rule should provide entities with appropriate process relative compliance assessments. These key characteristics of administrative rules enable parties to develop effective compliance programs. Additionally, they facilitate effective oversight by the PUCT and other entities that play a role in compliance monitoring under the rules (*e.g.* ERCOT). Conversely, any ambiguity in a rule undermines the effectiveness and can lead to ineffective and inconsistent oversight and enforcement.

Finally, as the PUCT is aware, NERC is in the process of implementing rules related to weatherization. The creation of similar Texas rule creates dual regulatory obligations. That in and of itself poses a regulatory, administrative and resource burden on subject entities due to the dual compliance obligation relative to the same issue. However, that issue is exacerbated by the potential for conflicting rules. The final rule should consider the NERC rules related to weatherization and endeavor to mitigate redundant and/or conflicting rules.<sup>1</sup>

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<sup>1</sup> NG Renewables initial comments in this docket recommended that the PUCT consider the NERC rules and whether they provided adequate protections against extreme weather. In these comments, NG Renewables urges the PUCT to consider following the same approach of requiring the “what” and not the “how” – *i.e.* requiring the development and implementation of a weatherization program - and not mandating specific performance obligations.

## II. COMMENTS<sup>2</sup>

In addition to issuing the draft rule PUCT staff solicited comments on two specific questions. Those questions and NG Renewables responses are provided below.

1. *What is the availability of statistically reliable weather information from, e.g. the American Society of Heating, Refrigeration and Air Conditioning Engineers; National Weather Service; or other sources for the ERCOT power region? Please share the source of that information.*

The National Oceanic and Atmospheric Administration's (NOAA's) National Centers for Environmental Information (NCEI) provides a comprehensive source of historical weather information.

2. *Do existing market-based mechanisms provide sufficient opportunity for cost recovery to meet the weather reliability standards proposed in the discussion draft? If not, what cost recovery mechanisms should be included in the proposed rule?*

There are adequate market-based mechanisms available to recover facility capital costs, which would include the cost of weatherization. This response assumes the final rule in this docket will focus on incremental weatherization programs facilitating performance under extreme weather conditions consistent with the capabilities and functionality of the different types of resources and will not require capital investments to change the operational and functional characteristics of the generation.<sup>3</sup>

With respect to the draft rule generally, NG Renewables offer the following comments on the relevant sections that apply to generation.

### **Section (c) – Weather Study**

The draft rule requires ERCOT to conduct a weather study, which is then used to define the conditions that trigger the performance obligations. Section (c) states in relevant part:

*(c) Weather study. ERCOT, in consultation with the Office of the Texas State Climatologist, must prepare a weather study that includes statistical probabilities of a range of extreme weather scenarios for the weather zones that ERCOT establishes for this study.*

*(1) Weather study criteria. The weather study must include statistical probabilities for a range of weather scenarios in the 95th, 98th, and 99th percentile probabilities for the established weather zones. The weather study must address a comprehensive range of weather event scenarios that may impact transmission and generation performance in the ERCOT power region. These scenarios must include, at a minimum, parameters for high and low temperatures, wind, humidity, precipitation, and duration.*

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<sup>2</sup> NG Renewables notes that is generally supports the comments being provided by the Advanced Power Alliance in Project 51840.

<sup>3</sup> The response to this question also assumes that the final rule will apply equally to all resource types. Of course, the scope and cost of plans will differ between resources, but that is a reflection of technology type. The standards and requirements established by the rule should apply without distinction to all resources.

The draft rule establishes a floor for the scope of the weather scenarios. The floor includes both physical and temporal parameters. The scope of the parameters, qualitatively and quantitatively, should be vetted with generation stakeholders to ensure it is appropriate relative to the weather events that impact generation (all types). For example, the 2011 and 2021 cold weather events clearly demonstrated that extreme cold can impact generation performance. However, there really are no hot weather parallels of actual events that resulted in impacts like those experienced during the two relevant winter incidents. Appropriately circumscribing the scope of the weather study will produce a more effective rule in terms of implementation, compliance and system reliability.

### **Section (d)(1) – Basic Weather Reliability Standard**

Section (d)(1) establishes the standard that all generation must comply with. The section states as follows:

*(1) Basic weather reliability standard. A generation entity must maintain weather preparation measures that reasonably ensure that its resource can provide service at the resource's applicable rated capability as defined by ERCOT under the 95th percentile of each of the extreme weather scenarios specified in the weather study approved by the commission under subsection (c) of this section.*

The compliance standard in this requirement is vague. Per the rule an entity must “reasonably ensure” that it’s weatherization program can perform under the relevant conditions – *i.e.* the 95<sup>th</sup> percentile of the applicable weather scenarios.<sup>4</sup> This standard lends itself to inconsistent subjective interpretation and the ambiguity will undermine effective implementation, compliance, and compliance oversight.<sup>5</sup>

The draft rule also relates the performance requirement to the resource’s rated capability as defined by ERCOT. This language should be clarified by relating it to an objective metric utilized by ERCOT in the execution of its functions. NG Renewables proposes that the HSL from a unit’s Current Operating Plan (“COP”) be utilized for this purpose. The HSL is a dynamic metric that reflects the capabilities of a unit in real-time given all relevant circumstances. There are factors beyond extreme weather that impact the output of generation units (especially intermittent resources), and performance requirements related to this weatherization standard should respect such operational factors and associated operational limitations; the rule should also ensure its focus is limited to forced outage type situations that are directly caused by the extreme weather circumstances that will ultimately be defined by the ERCOT Weather Report. RARF data is another option, but HSLs in the RARF are capability and this standard applies during

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<sup>4</sup> NG Renewables notes that section (f) of the draft rule suggests that all that is required under (d) is the development and implementation of a program, supported by a report that demonstrates how the program meets the standard – *i.e.* performance during the relevant weather period. However, as drafted, the rule could be interpreted as implying a performance standard as well. This interpretation is supported by other parts of the draft rule – sections (g), (h) and (f). The comments on section (d) are assuming it includes a performance standard. If it does not, then it is arguably in line with the recommendations herein to revise the rule so (d) only requires the development and implementation of a program. But if that is all that is required then other parts of the rule related to performance appear inconsistent.

<sup>5</sup> Consideration of absolute performance standards would address the issue but would not be reasonable because many other factors could affect the performance of units, and it is unclear that there are solutions available that can ensure performance under the weather scenarios that will fall into the 95th percentile (which is completely unknown at this point). Such alternatives would not be reasonable and could subject entities to compliance risks beyond their control.

operational timeframes, which is performance. Accordingly, the COP HSL is a more appropriate metric for this purpose. If other metrics are used (e.g. RARF or nameplate) that may result in violations that are beyond the control of subject entities. This could occur if nameplate is used for this purpose, and then, during an applicable weather period when the standard applies, the real time COP HSL of the unit is less than nameplate. This could result in a violation that is out of the control of the resource that is not justified.

This section of the draft rule also establishes that the triggering conditions for the compliance obligations are the weather scenarios described in the weather report developed per section (c). As discussed in the comments on section (c), ERCOT should seek input from the generation community on the scope of the weather report to ensure the compliance obligations are limited to only those factors that pose a risk to performance and, therefore, to system reliability. In addition, the role of the weather study in the weatherization standard should be revisited for the reasons described below.

The scope of the weather conditions in the weather report may overlap with normal weather conditions that impact the performance of intermittent generation. For example, if 95<sup>th</sup> percentile triggering condition(s) materialize and the performance obligations apply, it is possible that during those conditions there are other normal weather conditions, or other circumstances beyond the control of the resource, that impact performance. For example, if during such circumstances (e.g. extreme cold) the wind is not blowing or the sun is not shining, wind and solar performance may be impacted, but the production issue is completely unrelated to the extreme weather or the weatherization programs. Entities should not be subject to potential violations under these circumstances, but the draft rule creates this risk.

Furthermore, because the scope of the weather report is unknown, it is not clear that there are technological, equipment, operational procedures etc. available to industry to comply with the performance standards under the relevant conditions. On a similar note, facilities may have regulatory constraints that could impact performance during periods where this rule may apply. These also pose compliance risks that would be beyond the control of the regulated community. NG Renewables acknowledges that programs are only required to “reasonably ensure” performance, but as discussed above, the ambiguity associated with that standard is problematic.

For all the reasons discussed above, NG Renewables proposes that the standard be revised to provide an objective, measurable standard. Like the approach that NERC is taking, the requirement should be that an entity develops and implements a weatherization program. The weather report can be retained in the process, but rather than triggering performance obligations, regulated entities should be required to consider the relevant weather scenarios in the development of their weatherization programs. By taking this approach entities’ programs would be tailored to maximize performance of their units (within the applicable operational/functional specifications) under PUCT endorsed weather conditions (PUCT would approve the ERCOT weather plan), but the compliance risks associated with performance mandates that are vague and/or beyond the control of the regulated community would be mitigated. NG Renewables believes this approach would achieve the same if not better results in terms of supporting system reliability and would also produce a more effective rule in terms of implementation, compliance and compliance and enforcement oversight.

## **Section (d)(2) – Enhanced Weather Reliability Service Standard**

Section (d)(2) establishes a discretionary service standard for generators should such a reliability service be developed by ERCOT. It functions in the same manner as (d)(1) in terms of the performance standards and conditional performance triggers, but the triggers are the weather conditions within the 98<sup>th</sup> percentile, rather than the 95<sup>th</sup> percentile. The section states:

*(2) Enhanced weather reliability service standard. A generation entity may elect to maintain weather preparation measures that reasonably ensure its resource can provide service at the resource's applicable rated capability as defined by ERCOT under the 98th percentile of each of the extreme weather scenarios specified in the weather study approved by the commission under subsection (c) of this section. A resource that meets this standard may qualify to provide an enhanced weather reliability service procured by ERCOT.*

The issues described in relation to (d)(1) exist for this section for the same reasons and should be addressed accordingly. To mitigate these issues, and given that this is a discretionary service, to the extent an entity elects to provide this service and designs its weatherization program accordingly, this section should be revised to focus on the functionality of the weatherization program relative to the 98<sup>th</sup> percentile standard; for the same reasons as described in relation to (d)(1) it should not focus on actual performance. Accordingly, an alternative approach to qualifying for this service would be to require an entity to provide a report to ERCOT that demonstrates its weatherization program is designed to meet the 98<sup>th</sup> percentile standard. The standard could require the use of a third party for this purpose.

ERCOT would decide if the facility qualified for the service based on the report. However, the review/approval process should provide for adequate process for the entity seeking to provide the service. For example, ERCOT could develop a draft decision that describes the basis for the decision and the entity could be provided the opportunity to comment. ERCOT would then make a final decision and that decision would be provided to the entity.<sup>6</sup>

## **Section (d)(4) – Enhanced Weather Reliability Service Standard**

Section (d)(4) applies to new resources and requires such resources to meet the requirements of (d)(1) prior to commercial operations.

*(4) New resource. A generation entity must maintain weather preparation measures that reasonably ensure that its new resource can meet the basic weather reliability standard under paragraph (1) of this subsection before it commences commercial operations. The generation entity must submit to ERCOT a compliance study as described in paragraph (f)(1) of this section by a deadline specified by ERCOT.*

The requirements for new resources should not delay projects that are currently under development with in-service/commercial operation dates that in the relatively near term. To address this potential concern, the PUCT should define “new resource” based on commercial operation date relative to a prospective point in time. For example, a new resource could be defined in terms of commercial operation on or after

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<sup>6</sup> Parties can always file complaints with the PUCT if the process under the ERCOT rules does not address their concerns.

2024. This ensures that there is a long enough lead time for projects to incorporate the relevant requirements into their development plans and mitigates the potential impact to projects currently under development and set to go commercial in near term timeframes. Projects under development but outside of the definition of “new resource” could be subject to the requirements for existing resources *or* within some period relative to their commercial operation date (e.g. 1 or 2 years from the commercial operation date). NG Renewables supports the concept of 1 or 2 years from the commercial operation date for resources that fall within that category. This approach mitigates the potential delay risk for those resources and simplifies the standard for those resources.

#### **Section (e)(1)(A)-(C) – implementation of weather reliability standards for a generation entity**

Section (e)(1)(A)-(C) establish the dates for compliance with section (d) of the rule. The section states:

*(e) Implementation of weather reliability standards for a generation entity.*

*(1) Implementation of basic weather reliability standard. A generation entity must meet the basic weather reliability standard under subsection (d) of this section by the following deadlines:*

*(A) For each resource with more than 650 megawatts (MW) of nameplate capacity in operation on January 1, 2022, no later than November 30, 2022;*

*(B) For each resource with at least 250 MW and no more than 650 MW of nameplate capacity in operation on January 1, 2022, no later than November 30, 2023; and*

*(C) For each resource with less than 250 of nameplate capacity in operation on January 1, 2022, no later than November 30, 2024.*

Given that the compliance standard performance obligation triggers (the weather scenarios) will not be known until at least early 2022, these compliance timeframes may not be reasonable. Establishing a standard that employs a soft and hard compliance date approach may be more reasonable and facilitate effective and timely compliance while also respecting practical obstacles of meeting the dates proposed in the rule. The rule could maintain the compliance dates, but establish them as a goal, which would then be backed by a mandatory deadline. For example:

*(A) For each resource with more than 650 megawatts (MW) of nameplate capacity in operation on January 1, 2022, the resource shall endeavor to comply with (d) by November 30, 2022. Resources that do not comply by November 30, 2022 shall submit a report to ERCOT and the PUCT explaining why they were unable to comply, the compliance status and expected compliance date. Resources that do not meet the November 30, 2022 date shall comply no later than November 30, 2023;*

NG Renewables recognizes that entities may request a deadline extension but believes the foregoing recommendation for the compliance dates is a more effective means of providing flexibility while still achieving timely compliance. The deadline extension should still be available for circumstances that warrant an extension.

## **Section (e)(4) – Extension of deadline**

Section (e)(4) of the proposed rule provides for an extension of the compliance dates. The section states:

*(4) Extension of deadline. A generation entity may petition the commission to extend the implementation deadline for a generation resource. The commission may approve the petition with or without conditions if the generation entity demonstrates that it used best efforts to meet the deadline.*

NG Renewables recommends that the PUCT consider revising the process so the extension request goes to ERCOT in the first instance, subject to appropriate process for the requesting entity (e.g. opportunity to comment on ERCOT draft decision). NG Renewables believes utilizing ERCOT for the initial review will facilitate an efficient process given ERCOT's substantive role in other aspects of this rule (e.g. the review of the reports under (f) and inspections under (g)). ERCOT's role in other aspects of this rule provides it with experience and substantive and implementation knowledge of weatherization programs. That experience would enable ERCOT to process extension requests effectively and efficiently.

## **Section (f) Compliance with weather reliability standards for a generation entity**

Section (f) describes the compliance obligations for generation. The section states:

*(f) Compliance with weather reliability standards for a generation entity.*

*(1) Compliance study. Each generation entity must submit to ERCOT a study that confirms compliance with the applicable weather reliability standard in subsection (d) for each resource in its control. The study must be conducted by a qualified professional engineer who is not an employee of the generation entity or affiliate.*

*(A) The study must contain the information that ERCOT determines by rule should be required and be submitted to ERCOT no later than the applicable implementation deadline in subsection (e) of this section.*

*(B) A generation entity must submit a new analysis no later than 60 days after any significant change affecting the ability of a resource to meet the applicable weather reliability standard in subsection (d) of this section.*

*(2) Annual report. Each generation entity must submit an annual report to ERCOT no later than November 1 of each year that addresses compliance with subsection (d) of this section. The report must include the name of the generation entity, a list of the generation entity's resources, a summary of activities related to compliance, and all other information prescribed by ERCOT in its market rules. The annual report must also include a notarized affidavit sworn to by the chief executive officer of the generation entity, attesting that each of the generation entity's resources is in compliance with subsection (d) of this section.*

NG Renewables generally supports this requirement and believes it aligns with its recommendation to revise section (d) to clearly state that the compliance obligation is to develop and implement a weatherization program similar to the NERC standards that will implement weatherization rules. This report under section (f) could be a complement to and check on the weatherization programs developed



and implemented pursuant to the section (d). If the PUCT revises section (d) of the rule as suggested, this report obligation could be incorporated as part of the section (d) requirement.

With respect to subsection (e)(1)(A), because the regulated entities should have complete discretion as to how best design their programs, any informational requirements imposed by ERCOT in this regard should be limited to facility information and general, qualitative requirements, such as: “submit a report that demonstrates what your plan consists of (equipment, operational, procedural, etc.) and how each aspect of your plan facilitates the ability to operate during the applicable weather std/metric etc. that applies to your plan”. It is not clear what is intended by (e)(1)(A), but any requirements around the report should be limited along these lines.

Subsection (e)(1)(B) requires the submission of a new report/analysis within 60 days if there is a significant change that affects the ability to comply with section (d). It is not clear what significant means in this context. Based on the draft language it arguably links to a change that affects the ability of the facility to comply with section (d). However, use of the adjective implies there is some applicable threshold that triggers the requirement. To clarify this section and remove any subjective interpretation issues, the PUCT should consider revising the language. To clarify the obligation the rule could require a report or notice if there is any change to an entity’s weatherization program. The report/notice could provide a description and supporting documentation (if relevant) of how the change impacts the program. This approach removes the ambiguity created using the term significant and creates an objective and clear standard.

Subsection (e)(2) requires the submission of an annual report that describes how an entity’s weatherization program complies with section (d). As discussed in relation to section (d) of the proposed rule, the compliance standards as drafted in (d) is vague and ambiguous and susceptible to differing and potentially conflicting interpretation. As a result, this reporting requirement would present similar problems in development and review, which would create compliance and legal risk beyond the control of the resource entity. If section (d) is revised as recommended in these comments such that the compliance obligation is to develop and implement a program that considers the weather scenarios in the weather report, then this report should be an informational submission. Entities could report on the performance of the weatherization programs under relevant circumstances in the weather report that occurred during the year. NG Renewables believes that this is the appropriate use and role for this annual report. As discussed, because of the difficulties in crafting a performance based standard for this purpose, the regulatory obligation should just be to develop and implement a program that considers the weather scenarios in the ERCOT weather report. While it is not reasonable to mandate performance during events, reporting on performance relative to the weatherization programs could provide informational value to the PUCT, ERCOT and market participants to facilitate the identification of best practices across time.

### **Section (g) – Inspections for a Generation Entity**

Section (g) establishes an inspection program that ERCOT will administer. The section states:

*(1) ERCOT inspections. ERCOT must implement an inspection program that reasonably determines whether the resources in the ERCOT power region are in compliance with subsection (d) of this section. ERCOT must implement an inspection schedule that ensures that each resource is inspected at least once every three years for compliance with subsection (d) of this section. ERCOT may conduct inspections more frequently than every three years and must prioritize in its inspection schedule any generation resource it*

*determines is critical for electric grid reliability. ERCOT may also prioritize inspections of other resources, including a generation resource that has experienced a forced outage, forced derate, or failure to start during extreme weather conditions, or that has exhibited other vulnerabilities to weather conditions or deficiencies in weather emergency preparedness. ERCOT has the discretion to determine the extent and content of particular inspections.*

*(2) ERCOT inspection report. ERCOT must provide a report on its inspection of a resource to the generation entity. The inspection report must address whether the resource was in compliance with subsection (d) of this section and, if it was not, provide the generation entity a reasonable period to cure the identified deficiencies. The cure period determined by ERCOT must consider what weather preparation measures the generation entity may be reasonably expected to have taken before ERCOT's inspection, the reliability risk of the resource's noncompliance, and the complexity of the weather preparation measures needed to cure the deficiency.*

Subsection (g)(1) states that the inspection program must “reasonably determine” compliance with (d). This standard is vague, and it is relative to a similarly vague compliance standard under section (d). This section should be revised by removing “reasonably determines”. The rule should just require ERCOT to develop an inspection program to check compliance. Any inspection program should be limited to 1) ensuring the entity has a weatherization program and that the program has been implemented at the facility. To the extent weather events per the weather report have occurred between inspections the inspection program could also review the performance of the program during such periods (e.g. to the extent the program has equipment or operational components, the inspection could confirm that it is functioning as described and if it has procedural components that they are being executed as described). However, as discussed, performance should not be mandated, and any such reviews should be for informational value to facilitate weatherization program improvements over time.

Section (g)(1) also states that ERCOT may adjust inspection schedules based on a resource’s performance during extreme weather events. The rule should make clear that any revisions to inspection schedules based on these considerations should be limited to only those cases where the extreme weather was the cause of the outages, derates, etc. This clarification ensures that other causes of operational performance are not viewed as weatherization issues that warrant additional scrutiny. For example, if the wind is not blowing or the sun is not shining during extreme weather events this could affect performance, or there could be other non-weather-related reasons for outages.

Section (g)(2) describes the inspection report requirements. ERCOT is required to provide the report to the entity. There should be adequate process in the rule, such as giving the entity the opportunity to comment on a draft report prior to ERCOT issuing a final report.

The draft rule also requires that a reasonable cure period be provided. The term reasonable is vague, but if the entity is provided the opportunity to comment on a draft inspection report it can provide input into what is reasonable for the cure period, which should mitigate the vagueness concerns with the use of the term “reasonable” in this context.

The rule also notes that in determining the cure period ERCOT must consider the following: 1) what weather preparation measures the generation entity may be reasonably expected to have taken before

ERCOT's inspection, 2) the reliability risk of the resource's noncompliance, and 3) the complexity of the weather preparation measures needed to cure the deficiency.

With respect to (1) this appears to put ERCOT in the position of making retroactive business decisions for the entity, and it appears to potentially conflict with prior program reviews conducted by ERCOT pursuant to section (f). ERCOT should not be able to review programs and then later say some aspects of the programs are not adequate or that the entity should have developed and implemented a different program.

The second criterion, the reliability risk, is irrelevant. The criteria for determining the cure period should be limited to the substance of the specific issue and the expected time it takes to address it -reliability risk will not change these practical realities, and to impose a cure period that cannot be met (for example because replacement equipment cannot be obtained in that period) exposes entities to compliance risk that they cannot control. Consistent with this comment, the third criterion is the sole and driving factor for determining the cure period.

#### **Section (h) Violations of weather reliability standards by a generation entity**

Section states, in relevant part:

*(1) Administrative penalty. The commission will impose an administrative penalty on a generation entity that has violated subsection (d) of this section and does not cure the violation within a reasonable period of time.*

*(3) Weather-related failures to provide service. For a resource that experiences repeated or major weather-related forced interruptions of service, including forced outages, derates, or maintenance-related outages that result in a failure to comply with subsection (d) of this section, the generation entity must contract with a qualified professional engineer who is not an employee of the generation entity or its affiliate to assess its weather preparation measures, plans, procedures, and operations and submit the assessment to the commission and ERCOT. ERCOT must adopt rules that specify the circumstances for which this requirement applies and specify the scope and contents of the assessment. A generation entity may be subject to additional inspections by ERCOT and referral to the commission for enforcement of any violation of the commission's rules and failure to cure the identified deficiencies within a reasonable period of time.*

Section (h)(1) of the rule should make clear that the PUCT "can" impose an administrative penalty. And while NG Renewables acknowledges that the current draft rule appears to make referrals discretionary, the referral should also leave room for PUCT review and consideration, and not force a penalty if in the judgement of the PUCT there is some reason why a penalty would not be warranted by the particular referral. If the PUCT is left without discretion, the rule effectively makes ERCOT the decisionmaker and renders PUCT review of the referral a mere formality. Consistent with the recommendation to make the authority to issue a penalty discretionary, the process at ERCOT and before the PUCT should include adequate process for the entity to contest/provide comment on the matter.

Subsection (h)(1) states that penalties will be imposed for violations of (d) that are not cured within a reasonable period. Like prior comments related to the use of the adjective "reasonable", it is vague and susceptible to different and potentially conflicting interpretations. For violations identified during an

ERCOT inspection pursuant to section (g), reasonable should align with the cure period determined in the inspection report (provided there is adequate process in place that provides the entity with the opportunity to comment on it). The rule does not address self-identified and reported violations. For such circumstances, the cure period should be determined by the practical time to cure the issue given the circumstances. The entity should provide the suggested cure period based on all relevant facts and circumstances. The cure period should be presented to ERCOT and mutually agreed upon. Finally, there should be the opportunity to extend any cure period if the facts and circumstances justify it.

Subsection (h)(3) requires entities that experience repeated or major weather-related outages to engage a third party to review their weatherization program. The assessment would be provided to ERCOT and may justify additional inspection scrutiny and/or referral to the PUCT for enforcement action. As an initial matter, the triggers – repeated and/or major issues (*e.g.* outages/derates) – are vague and susceptible to different and potentially conflicting interpretations. The section does state that ERCOT is required to adopt rules that specify when these assessments would be required. If specific rules are developed that provide regulatory certainty and clarity (and exceptions for appropriate circumstances such as outages caused by reasons other than extreme weather) then the vagueness issue may be remedied, and the requirement may have merit as a reasonable means to assist entities in identifying and remedying problems with their programs. Any rule developed by ERCOT for this purpose should consider input from the generation community.

The subsection also states that the third party must be a qualified professional engineer. The term qualified is vague. The PUCT should consider removing that term and simply state professional engineer or providing some additional guidance such as loosely defining qualified in terms of professional focus, years of experience etc.

The subsection also states that the report/assessment performed by the third party is required to go to ERCOT and that ERCOT may use the report as the basis to adjust its inspection schedule for the entity and/or report the entity to the PUCT for enforcement, but it does not say if the entity must adopt any recommendations in the report. It implies that is the case by saying enforcement may apply if not cured in a reasonable time-period. The draft rule should clarify this. NG Renewables suggests that the entity should not be required to adopt recommendations in an assessment, but rather they should just be considered when developing the plan to cure the issue. The entity should have flexibility and discretion to adopt the most effective means to cure the matter consistent with its business practices. The entity could be required to submit a report to ERCOT explaining its approach to curing the relevant issues and why it did or did not elect to use recommendations in the third-party report. Finally, like other comments herein, the entity should be provided adequate process with respect to a third-party report issued pursuant to this section. For example, the entity should be provided with a draft report and given the opportunity to comment on it to ERCOT. This not only provides due process to the entity, it enhances ERCOT's ability to perform its role in this process by ensuring it has all relevant information related to the incident.

### III. CONCLUSION

NG Renewables appreciates the opportunity to comment on the draft weatherization rule. The comments provided herein are intended to enhance the clarity of the rule and to ensure adequate process is in place where appropriate and may offer an opportunity to improve the effectiveness of the final rule in terms of implementation, compliance, compliance oversight and enforcement, and in supporting system reliability. NG Renewables looks forward to working with the PUCT and interested parties in the finalizing and implementing the rule to further grid reliability in the ERCOT region.

Respectfully submitted,

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